paid under mistake of law cannot be recovered does not preclude the recovery by public corporations of money illegally paid out by their disbursing officers. *County of Wagner v. Reynolds* (1901) 126 Mich. 231, 85 N. W. 574; Woodward, *Quasi-Contracts,* sec. 40; Ann. Cas. 1915 B, 811. Such an action may be brought by a taxpayer. *Kerr v. Regester* (1908) 42 Ind. App. 375, 85 N. E. 790. The desirability of a provision in our procedural law for declaratory judgments is emphasized by the principal case. Indeed, the opinion in the principal case follows in its general line of reasoning the principles underlying such judgments. For arguments in their favor see Professor Borchard's articles in (1918) 28 YALE LAW JOURNAL, 1, 105.

ASSIGNMENTS—PARTIAL ASSIGNMENT—CONVERSION BY ASSIGNOR WHO COLLECTS DEBT.—A written partial assignment of a money claim against a city was made by a corporation, acting through its president. The parties orally agreed, however, that the assignee was not to notify the debtor of the assignment, that the assignor should collect the whole, and that "as soon as the corporation received" the amount of the debt from the debtor "the amount so assigned would be paid" to the plaintiff. The president of the corporation collected the whole sum, receiving a warrant therefor payable to the order of the corporation. This warrant he deposited in the corporation's bank account, and then used the funds for corporation expenses. The corporation became bankrupt and the partial assignee then brought the present action for conversion against the president of the corporation. *Held,* that the plaintiff could not recover. Smith, J., *dissenting. Hinkle Iron Co. v. Kohn* (1918, N. Y. App. Div.) 171 N. Y. Supp. 537.

See COMMENTS, p. 395.

CONFLICT OF LAWS—EFFECT OF FOREIGN INJUNCTION ON PENDING SUIT.—In a *mandamus* proceeding in Minnesota it appeared that the relator was administratrix of a person killed in Nebraska under circumstances making the defendant railway company liable under the wrongful death statute of that state; that the administratrix began an action in Minnesota against the defendant to recover damages for the wrongful death, the defendant being subject to jurisdiction there; that after issue had been joined in the Minnesota action, but before trial, the defendant railway company obtained in Nebraska a temporary injunction restraining the administratrix from proceeding with the Minnesota suit; that the Minnesota court entered an order staying proceedings until final hearing on the Nebraska injunction. The administratrix now asked the Supreme Court of Minnesota for a peremptory writ of *mandamus* to compel the Minnesota court to proceed with the action. *Held,* that the relator was entitled to the writ of *mandamus,* although it did not appear that the Nebraska injunction had been dissolved. *State ex rel. Bossung v. District Court* (1918, Minn.) 168 N. W. 589.

In the absence of the injunction the right of the administratrix to enforce her claim in the Minnesota courts was clearly established by the decisions in that jurisdiction. *Herrick v. Minneapolis, etc. Co.* (1883) 31 Minn. 11, 16 N. W. 413. On the other hand, the power of the Nebraska court to issue the injunction could not be denied, as apparently the administratrix was not only personally served in Nebraska but was in addition a citizen of that state. It is elementary also, that the Nebraska injunction could not bind the Minnesota court. It might, however, furnish a reason why on grounds of policy or "courtesy" the

Minnesota court would refrain from proceeding until the Nebraska suit had been finally settled. Only one other decision squarely in point has been found and that reaches directly the opposite result. *Fisher v. Pacific etc., Ins. Co.* (1916) 112 Miss. 30, 72 So. 846. The argument of the Minnesota court may be summarized in two propositions: (1) if the plaintiff was a citizen of Minnesota she would be entitled to proceed in spite of the Nebraska injunction; (2) if so, a Nebraska citizen must be equally entitled to proceed, otherwise the court would violate Art. 4, Sec. 2 of the federal Constitution,—"the citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states." As to the second point: where no question of injunction is involved, it has been held that citizens of other states are entitled, under the constitutional provision in question, to sue in state courts on so-called "transitory" causes of action arising elsewhere, if citizens of the state are so entitled. *Eingartner v. Illinois Steel Co.* (1896) 94 Wis. 70, 68 N. W. 664; *State ex rel. Prall v. District Court* (1914) 126 Minn. 501, 148 N. W. 463. *Contra: Robinson v. Oceanic Steam Nav. Co.* (1889) 112 N. Y. 315, 19 N. E. 625. We may doubt the applicability of this to the case in hand, where a Nebraska citizen is seeking to escape from the courts of her own state. If we accept it as applicable, we are brought to the other point, viz., whether a citizen of Minnesota under circumstances otherwise similar would have been entitled to have the court below proceed with the action. In answering this in the affirmative the court cited no authorities precisely in point. It appeared to them that to allow a Nebraska injunction to have the effect of depriving a Minnesota citizen of his right to go on with a suit in his own state would be to give the courts of another state undue control over Minnesota litigation. All that can be said is that a question of policy of this kind is one upon which views may differ, as is shown by the fact that the Mississippi court in the case cited reached the contrary result.

CONSTITUTIONAL LAW—DUE PROCESS OF LAW—REVOCATION OF LICENSE WITHOUT A HEARING.—The statutes of North Dakota authorized the Dairy Commissioner to issue licenses to creameries and cream stations and to revoke licenses "on evidence" that the licensee had violated or had been "convicted" of violating the dairy laws. They also made it unlawful to misread a certain Babcock test for determining the quality of milk. A dairy inspector reported to the Commissioner that the petitioner had misread the test, whereupon, without notice or a hearing, the Commissioner revoked the petitioner's license. The petitioner requested and obtained a hearing from the State Commissioner of Agriculture who, although without statutory authority to grant or hold a hearing, sustained the Dairy Commissioner's order revoking the license. On a petition for a writ of *certiorari* to review the action of the Dairy Commissioner, *held,* that the writ must be denied. *Cofman v. Osterhous* (1918, N. Dak.) 168 N. W. 826.

See COMMENTS, p. 391.

CONTRACTS—CONSIDERATION—PERFORMANCE OF EXISTING DUTY TO DEFENDANT.—The plaintiff was employed by the defendant by a written contract for one year from a certain date at $90 per week. Three months later a second written contract was made for one year from the same date for the same services at $100 per week. In an action for breach of the second contract the jury was instructed that the contract was valid in case the parties had rescinded the prior contract before executing the second. *Held,* that this was correct and that there